

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TODD ROY GIBBONS,

Plaintiff,

v.

ROBERT MCKENNA, et al.,

Defendants.

No. 12-cv-5793-RBL

ORDER

(Dkt. #1)

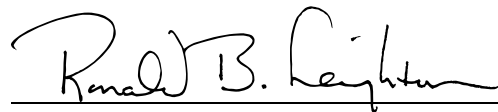
Plaintiff has renewed his application to proceed *in forma pauperis* in a suit alleging medical malpractice. The application states that Plaintiff is homeless and earns between \$50 and \$300 per month. The Complaint states that certain medical providers acted negligently in treating Plaintiff's spina bifida. Specifically, Plaintiff alleges that in 2004 Lynn Chapman, a DSHS representative, referred Plaintiff to Community Healthcare for the Homeless rather than The Hill Burton Foundation. (Proposed Compl. at 23, Dkt. #4.) The Complaint goes on to make difficult to follow allegations referring to Plaintiff's medical records and a conspiracy to cause financial hardship. The allegations are restricted to generalized facts: for example, "[Defendants] failed to properly diagnose and treat the Plaintiff." (Proposed Compl. at 19, Dkt. #4.)

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). The court has broad discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th

1 Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should “deny leave to proceed
2 *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the
3 action is frivolous or without merit.” *Tripathi v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369
4 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*
5 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v.*
6 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.
7 1984).

8 The Court cannot grant *in forma pauperis*. Plaintiff states only that Defendants failed to
9 meet their standard of care; he does not explain when or how. While the Court provides
10 significant leeway to *pro se* parties, the Complaint fails to put the proposed Defendants on notice
11 of the factual basis for the suit. No Defendant could possibly draft an answer to such a
12 Complaint. The Court must therefore conclude that the claims as drafted are frivolous. If
13 Plaintiff wishes to proceed, he must pay the filing fee.

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15 Dated this 2nd day of November 2012.

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18 Ronald B. Leighton
19 United States District Judge
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